

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

G.S. by and through his parents and next)
friends, BRITTANY and RYAN)
SCHWAIGERT, S.T. by and through)
her mother and next friend, EMILY)
TREMEL; J.M., by and through)
her mother and next friend,)
KIMBERLY MORRISE; and on)
behalf of those similarly situated,)
)
Plaintiffs,)
)
v.) **Case 2:21-cv-02552-SHL-atc**
)
GOVERNOR BILL LEE, in his official)
capacity as GOVERNOR OF TENNESSEE,)
and SHELBY COUNTY, TENNESSEE,)
)
Defendants.)

**MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION
OF DEFENDANT GOVERNOR BILL LEE**

Pursuant to Fed. R. Civ. P. 12(b)(1), Defendant Governor Bill Lee, in his official capacity as the elected chief executive of Tennessee, moves to dismiss the claims against him for lack of subject matter jurisdiction. Newly enacted Tennessee legislation, i.e., the COVID Act, Tenn. Code Ann. §§ 14-1-101—14-6-104, the termination of Executive Order 84, and the expiration of Tennessee's state of emergency render Plaintiffs' claims against Governor Lee moot, depriving the Court of subject-matter jurisdiction.

Because there no longer exists a live case or controversy for the Court to adjudicate, the Court should grant this Motion to Dismiss for Lack of Subject Matter Jurisdiction. As required by LR 7.2(a)(1) and LR 12.1(a), Governor Lee's memorandum of law in support of this Motion to

Dismiss for Lack of Subject Matter Jurisdiction is filed simultaneously herewith.

Respectfully submitted,

HERBERT H. SLATERY III
Attorney General and Reporter

/s/ James R. Newsom III

James R. Newsom (TN BPR No. 6683)
Special Counsel
Matthew R. Dowty (TN BPR No. 32078)
Assistant Attorney General
Robert W. Wilson (TN BPR No. 34492)
Assistant Attorney General
Office of the Tennessee Attorney General
40 South Main Street, Suite 1014
Memphis, TN 38103
(901) 543-2473
Jim.Newsom@ag.tn.gov
Matthew.Dowty@ag.tn.gov
Robert.Wilson@ag.tn.gov

*Counsel for Defendant-Appellant
Governor Bill Lee*

CERTIFICATE OF SERVICE

I hereby certify that on this the 18th day of January 2022, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing report. Parties may access this filing through the Court's electronic filing system.

/s/ Robert W. Wilson
Robert W. Wilson
Assistant Attorney General